

REMARKS/ARGUMENTS

The Office Action of January 29, 2007, has been carefully reviewed and these remarks are responsive thereto. Claims 1, 21 and 22 have been amended to expedite prosecution and without prejudice or disclaimer. Applicant reserves the right to pursue the original subject matter in the present application and/or in one or more continuation and/or divisional applications. No new matter has been added. Claims 1-5 and 7-22 remain pending in the application. Reconsideration and allowance of the instant application are respectfully requested in view of the following arguments.

Applicant's Interview Summary

Applicant thanks the Examiner for the courtesies extended to Applicant's undersigned representative during the telephonic interview of May 23, 2007 and the follow-up telephonic interview of May 29, 2007. The Examiner agreed that the proposed amendments discussed during the Interview appear to overcome the current art rejection of record. Accordingly, Applicant has amended the claims based on the proposed amendments. Further, Applicant agrees with and adopts the Examiner's Interview Summary as an accurate description of the substance of interview, in conjunction with the following remarks, pursuant to MPEP § 713.04.

Claim Rejection Under 35 U.S.C. §103

Claims 1-11, 13, 14 and 19-22 stand rejected under 35 U.S.C. §103(a) as being anticipated by Woo *et al.* (U.S. Patent No. 6,910,017, hereinafter "Woo") in view of Ruth *et al.* (U.S. Patent Pub. No. 2002/0059003, hereinafter "Ruth"). This rejection is traversed for at least the following reasons.

Amended independent claims 1, 21 and 22 relate to, *inter alia*, determining an uplifted sales value based on a selected uplift percentage and a base sale parameter wherein the base sale parameter is based on a relationship having the form:

$$BaseSale(Analysis_Period) = \frac{Sales_Imported_Period}{Profile_Value_Imported_Period} \bullet Profile_Value_Analysis_Period$$

, wherein a sales of an imported period corresponds to an actual sales of a specified period, a first profile value for the imported period corresponds to a first predicted sales for the specified period according to the sales profile, and a second profile value for the analysis period corresponds to a second predicted sales for the analysis period according to the sales profile. As

discussed during the telephonic Interview, Woo does not teach or suggest such a feature. At best, Woo discloses a demand multiplier that represents an increase in sales when price is reduced. Col. 6, ll. 60-67. The demand multiplier is generally defined based on historical data. *Id.* Even assuming, without conceding, the demand multiplier constitutes an uplifted sales value, there is still no teaching or suggestion in Woo of the demand multiplier being determined based on a base sale parameter that is based on the formula listed above. In fact, Woo discloses that the demand multiplier is calculated based on a markdown fraction and two constants; rather than based on sales of an imported week and a sales profile as indicated in the relationship listed above. Col. 7, ll. 2-14. Ruth fails to cure this deficiency of Woo. In fact, Ruth does not teach or suggest uplifted sales values and/or base sale parameters, much less the relationship above. As such, claims 1, 21 and 22 are allowable for at least this reason.

Claims 2-5, 7-11, 13-14, 19 and 20 are dependent on claim 1 and are thus allowable for at least the same reasons as claim 1 and further in view of the novel and non-obvious features recited therein.

CONCLUSION

As noted above, certain claims have been amended and cancelled. These changes have been made without prejudice or disclaimer. While Applicant does not necessarily agree with or acquiesce in the grounds of rejection raised with respect to any claims in the application, in order to expedite prosecution and to facilitate allowance of this application, Applicant makes these claim changes in the present application. Applicant presents these changes solely for the purposes of expediting prosecution and facilitating the immediate allowance of this present application. Applicant reserves all rights to pursue claims of the same or similar scope to the original and/or cancelled claims in this application, *e.g.*, by filing a continuing application.

All rejections having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. However, if for any reason the Examiner believes the application is not in condition for allowance or there are any questions, the examiner is requested to contact the undersigned at (202) 824-3156.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated this 29th day of May, 2007

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